

- 28 **75-7-412**, Utah Code Annotated 1953
- 29 **75-7-413**, Utah Code Annotated 1953
- 30 **75-7-414**, Utah Code Annotated 1953
- 31 **75-7-415**, Utah Code Annotated 1953
- 32 **75-7-416**, Utah Code Annotated 1953
- 33 **75-7-417**, Utah Code Annotated 1953
- 34 **75-7-502**, Utah Code Annotated 1953
- 35 **75-7-503**, Utah Code Annotated 1953
- 36 **75-7-504**, Utah Code Annotated 1953
- 37 **75-7-505**, Utah Code Annotated 1953
- 38 **75-7-506**, Utah Code Annotated 1953
- 39 **75-7-507**, Utah Code Annotated 1953
- 40 **75-7-601**, Utah Code Annotated 1953
- 41 **75-7-602**, Utah Code Annotated 1953
- 42 **75-7-603**, Utah Code Annotated 1953
- 43 **75-7-604**, Utah Code Annotated 1953
- 44 **75-7-701**, Utah Code Annotated 1953
- 45 **75-7-702**, Utah Code Annotated 1953
- 46 **75-7-703**, Utah Code Annotated 1953
- 47 **75-7-704**, Utah Code Annotated 1953
- 48 **75-7-705**, Utah Code Annotated 1953
- 49 **75-7-706**, Utah Code Annotated 1953
- 50 **75-7-707**, Utah Code Annotated 1953
- 51 **75-7-708**, Utah Code Annotated 1953
- 52 **75-7-709**, Utah Code Annotated 1953
- 53 **75-7-801**, Utah Code Annotated 1953
- 54 **75-7-802**, Utah Code Annotated 1953
- 55 **75-7-803**, Utah Code Annotated 1953
- 56 **75-7-804**, Utah Code Annotated 1953
- 57 **75-7-805**, Utah Code Annotated 1953
- 58 **75-7-806**, Utah Code Annotated 1953

- 59 **75-7-807**, Utah Code Annotated 1953
- 60 **75-7-808**, Utah Code Annotated 1953
- 61 **75-7-809**, Utah Code Annotated 1953
- 62 **75-7-810**, Utah Code Annotated 1953
- 63 **75-7-811**, Utah Code Annotated 1953
- 64 **75-7-812**, Utah Code Annotated 1953
- 65 **75-7-813**, Utah Code Annotated 1953
- 66 **75-7-814**, Utah Code Annotated 1953
- 67 **75-7-815**, Utah Code Annotated 1953
- 68 **75-7-816**, Utah Code Annotated 1953
- 69 **75-7-817**, Utah Code Annotated 1953
- 70 **75-7-901**, Utah Code Annotated 1953
- 71 **75-7-902**, Utah Code Annotated 1953
- 72 **75-7-903**, Utah Code Annotated 1953
- 73 **75-7-904**, Utah Code Annotated 1953
- 74 **75-7-905**, Utah Code Annotated 1953
- 75 **75-7-906**, Utah Code Annotated 1953
- 76 **75-7-1001**, Utah Code Annotated 1953
- 77 **75-7-1002**, Utah Code Annotated 1953
- 78 **75-7-1003**, Utah Code Annotated 1953
- 79 **75-7-1004**, Utah Code Annotated 1953
- 80 **75-7-1005**, Utah Code Annotated 1953
- 81 **75-7-1006**, Utah Code Annotated 1953
- 82 **75-7-1007**, Utah Code Annotated 1953
- 83 **75-7-1008**, Utah Code Annotated 1953
- 84 **75-7-1009**, Utah Code Annotated 1953
- 85 **75-7-1010**, Utah Code Annotated 1953
- 86 **75-7-1011**, Utah Code Annotated 1953
- 87 **75-7-1012**, Utah Code Annotated 1953
- 88 **75-7-1013**, Utah Code Annotated 1953
- 89 **75-7-1101**, Utah Code Annotated 1953

90 **75-7-1102**, Utah Code Annotated 1953

91 **75-7-1103**, Utah Code Annotated 1953

92 REPEALS AND REENACTS:

93 **75-7-101**, as enacted by Chapter 150, Laws of Utah 1975

94 **75-7-201**, as enacted by Chapter 150, Laws of Utah 1975

95 **75-7-202**, as last amended by Chapter 119, Laws of Utah 1995

96 **75-7-203**, as last amended by Chapter 194, Laws of Utah 1977

97 **75-7-204**, as enacted by Chapter 150, Laws of Utah 1975

98 **75-7-301**, as enacted by Chapter 150, Laws of Utah 1975

99 **75-7-302**, as repealed and reenacted by Chapter 119, Laws of Utah 1995

100 **75-7-303**, as last amended by Chapter 179, Laws of Utah 1992

101 **75-7-304**, as enacted by Chapter 150, Laws of Utah 1975

102 **75-7-305**, as enacted by Chapter 150, Laws of Utah 1975

103 **75-7-401**, as last amended by Chapter 39, Laws of Utah 1998

104 **75-7-402**, as last amended by Chapter 179, Laws of Utah 1992

105 **75-7-403**, as last amended by Chapter 119, Laws of Utah 1995

106 **75-7-404**, as last amended by Chapter 133, Laws of Utah 1991

107 **75-7-405**, as enacted by Chapter 150, Laws of Utah 1975

108 **75-7-406**, as enacted by Chapter 150, Laws of Utah 1975

109 **75-7-407**, as enacted by Chapter 150, Laws of Utah 1975

110 **75-7-408**, as enacted by Chapter 150, Laws of Utah 1975

111 **75-7-409**, as last amended by Chapter 320, Laws of Utah 2000

112 **75-7-410**, as enacted by Chapter 196, Laws of Utah 1999

113 **75-7-411**, as enacted by Chapter 196, Laws of Utah 1999

114 **75-7-501**, as enacted by Chapter 54, Laws of Utah 1982

115 REPEALS:

116 **75-7-205**, as enacted by Chapter 150, Laws of Utah 1975

117 **75-7-206**, as enacted by Chapter 150, Laws of Utah 1975

118 **75-7-207**, as enacted by Chapter 150, Laws of Utah 1975

119 **75-7-306**, as last amended by Chapter 179, Laws of Utah 1992

120 **75-7-307**, as last amended by Chapter 30, Laws of Utah 1992

121 *Be it enacted by the Legislature of the state of Utah:*

122 Section 1. Section **7-5-7** is amended to read:

123 **7-5-7. Management and investment of trust funds.**

124 (1) Funds received or held by any trust company as agent or fiduciary, whether for
125 investment or distribution, shall be invested or distributed as soon as practicable as authorized
126 under the instrument creating the account and shall not be held uninvested any longer than is
127 reasonably necessary.

128 (2) If the instrument creating an agency or fiduciary account contains provisions
129 authorizing the trust company, its officers, or its directors to exercise their discretion in the matter
130 of investments, funds held in the trust account under that instrument may be invested only in those
131 classes of securities which are approved by the directors of the trust company or a committee of
132 directors appointed for that purpose. If a trust company acts in any agency or fiduciary capacity
133 under appointment by a court of competent jurisdiction, it shall make and account for all
134 investments according to the provisions of Title 75, Utah Uniform Probate Code, unless the
135 underlying instrument provides otherwise.

136 (3) (a) Funds received or held as agent or fiduciary by any trust company which is also a
137 depository institution, whether for investment or distribution, may be deposited in the commercial
138 department or savings department of that trust company to the credit of its trust department.
139 Whenever the funds so deposited in a fiduciary or managing agency account exceed the amount
140 of federal deposit insurance applicable to that account, the trust company shall deliver to the trust
141 department or put under its control collateral security as outlined in Regulation 9.10 of the
142 Comptroller of the Currency or in Regulation 550.8 of the Office of Thrift Supervision, as
143 amended. However, if the instrument creating such a fiduciary or managing agency account
144 expressly provides that funds may be deposited to the commercial or savings department of the
145 trust company, then the funds may be so deposited without setting aside collateral securities as
146 required under this section and the deposits in the event of insolvency of any such trust company
147 shall be treated as other general deposits are treated. A trust company which deposits trust funds
148 in its commercial or savings department shall be liable for interest on the deposits only at the rates,
149 if any, paid by the trust company on deposits of like kind not made to the credit of its trust
150 department.

151 (b) Funds received or held as agent or fiduciary by a trust company, whether for

152 investment or distribution, may be deposited in an affiliated depository institution. Whenever the
153 funds so deposited in a fiduciary or managing agency account exceed the amount of federal deposit
154 insurance applicable to that account, the depository institution shall deliver to the trust company
155 or put under its control collateral security as outlined in Regulation 9.10 of the Comptroller of the
156 Currency or in Regulation 550.8 of the Office of Thrift Supervision as amended. However, if the
157 instrument creating the fiduciary or managing agency account expressly permits funds to be
158 deposited in the affiliated depository institution, the funds may be so deposited without setting
159 aside collateral securities as required under this section and deposits in the event of insolvency of
160 the depository institution shall be treated as other general deposits are treated. A trust company
161 which deposits trust funds in an affiliated depository institution is liable for interest on the deposits
162 only at the rates, if any, paid by the depository institution on deposits of like kind.

163 (4) In carrying out all aspects of its trust business, a trust company shall have all the
164 powers, privileges, and duties as set forth in [~~Section 75-7-402~~] Sections 75-7-815 and 75-7-816
165 with respect to trustees, whether or not the trust company is acting as a trustee as defined in Title
166 75, Utah Uniform Probate Code.

167 (5) Nothing in this section may alter, amend, or limit the powers of a trust company acting
168 in a fiduciary capacity as specified in the particular instrument or order creating the fiduciary
169 relationship.

170 Section 2. Section **7-5-10** is amended to read:

171 **7-5-10. Lending trust funds to trust company, officer, director, or employee as**
172 **felony.**

173 Unless expressly permitted in the instrument creating a trust account or by a person
174 authorized to give that permission or by a court order as permitted in Section [~~75-7-404~~] 75-7-802,
175 no trust company shall lend to itself or to any officer or director or employee of the trust company
176 any funds held in any trust account under the powers conferred in this chapter. Any officer,
177 director, or employee making such a loan, or to whom such a loan is made, is guilty of a third
178 degree felony.

179 Section 3. Section **7-5-14** is amended to read:

180 **7-5-14. Mergers, consolidations, acquisitions, transfers, or reorganizations involving**
181 **entities engaged in trust business -- Succession of rights and duties -- Petition for**
182 **appointment of another trust company.**

183 (1) Notwithstanding any provision of law to the contrary, a trust company, depository
184 institution, or other corporation authorized under this chapter or under the laws of the United
185 States to engage in the trust business in this state may, subject to the provisions of Sections
186 7-1-702, 7-1-704, and 7-1-705:

187 (a) (i) merge or consolidate with[;];

188 (ii) acquire control of, acquire all or a portion of the assets and trust business of, or assume
189 all or any portion of the liabilities of[;]; or

190 (iii) transfer control to, transfer all or a portion of its assets and trust business to, or
191 transfer all or a portion of its liabilities to, any other trust company, depository institution, or other
192 corporation, which institution is authorized under this chapter or under the laws of the United
193 States to engage in the trust business in this state; or

194 (b) reorganize.

195 (2) Upon final approval by the commissioner of any merger, consolidation, acquisition of
196 control, acquisition of assets, assumption of liabilities, or reorganization, and upon written notice
197 of this approval to all persons entitled to and then receiving trust accountings from the transferring
198 or reorganizing trust company, the resulting or acquiring trust company shall, without court
199 proceedings or a court order, succeed to all rights, privileges, duties, obligations, and undertakings
200 under all trust instruments, agency and fiduciary relationships and arrangements, and other trust
201 business transferred and acquired in the manner authorized by this section. However, except as
202 provided otherwise in the relevant trust instrument, any interested person may, not more than 30
203 days after receipt of written notice of the merger, consolidation, acquisition, transfer, or
204 reorganization, petition any court of competent jurisdiction to appoint another or succeeding trust
205 company with respect to any agency or fiduciary relationship affecting that interested person, and
206 until another or succeeding trust company is so appointed, the acquiring or resulting trust company
207 is entitled to act as agent or fiduciary with respect to the agency or fiduciary relationship. ~~No~~
208 ~~merger, consolidation, acquisition, assumption, or reorganization pursuant to this section shall be~~
209 ~~deemed to be a transfer which is prohibited by Section 75-7-403.]~~

210 (3) As used in this section, a "reorganization" includes, but is not limited to:

211 (a) the creation by a trust company of a subsidiary corporation which is wholly-owned by
212 that trust company and which is organized solely for the purpose of conducting all or any portion
213 of the trust business of that trust company; or

- 214 (b) any merger or other combination between a trust company and:
215 (i) a wholly-owned trust company subsidiary of that trust company; or
216 (ii) a wholly-owned trust company subsidiary of the depository institution holding
217 company which owns or controls that trust company.

218 Section 4. Section **49-1-303** is amended to read:

219 **49-1-303. Fund investment standard -- Prudent man rule.**

220 The fund shall be invested in accordance with the prudent man rule established [~~under~~
221 ~~Section 75-7-302~~] in Title 75, Chapter 7, Part 9, Utah Uniform Prudent Investor Act.

222 Section 5. Section **75-3-703** is amended to read:

223 **75-3-703. General duties -- Relation and liability to persons interested in estate --**
224 **Standing to sue.**

225 (1) A personal representative is a fiduciary who shall observe the standard of care
226 applicable to trustees as described by Section [~~75-7-302~~] 75-7-902. A personal representative is
227 under a duty to settle and distribute the estate of the decedent in accordance with the terms of any
228 probated and effective will and this code and as expeditiously and efficiently as is consistent with
229 the best interests of the estate. He shall use the authority conferred upon him by this code, the
230 terms of the will, if any, and any order in proceedings to which he is party for the best interests of
231 successors to the estate.

232 (2) A personal representative shall not be surcharged for acts of administration or
233 distribution if the conduct in question was authorized at the time. Subject to other obligations of
234 administration, an informally probated will is authority to administer and distribute the estate
235 according to its terms. An order of appointment of a personal representative, whether issued in
236 informal or formal proceedings, is authority to distribute apparently intestate assets to the heirs of
237 the decedent if, at the time of distribution, the personal representative is not aware of a pending
238 testacy proceeding, a proceeding to vacate an order entered in an earlier testacy proceeding, a
239 formal proceeding questioning his appointment or fitness to continue, or a supervised
240 administration proceeding. Nothing in this section affects the duty of the personal representative
241 to administer and distribute the estate in accordance with the rights of claimants, the surviving
242 spouse, any minor and dependent children, and any pretermitted child of the decedent as described
243 elsewhere in this code.

244 (3) Except as to proceedings which do not survive the death of the decedent, a personal

245 representative of a decedent domiciled in this state at his death has the same standing to sue and
246 be sued in the courts of this state and courts of any other jurisdiction as his decedent had
247 immediately prior to death.

248 Section 6. Section **75-3-913** is amended to read:

249 **75-3-913. Distributions to trustee.**

250 (1) Before distributing to a trustee, the personal representative may require that the trust
251 be registered if the state in which it is to be administered provides for registration and that the
252 trustee inform the beneficiaries as provided in Section [~~75-7-303~~] 75-7-813.

253 (2) If the trust instrument does not excuse the trustee from giving bond, the personal
254 representative may petition the appropriate court to require that the trustee post bond if he
255 apprehends that distribution might jeopardize the interests of persons who are not able to protect
256 themselves; and he may withhold distribution until the court has acted.

257 (3) No inference of negligence on the part of the personal representative shall be drawn
258 from his failure to exercise the authority conferred by Subsections (1) and (2).

259 Section 7. Section **75-5-417** is amended to read:

260 **75-5-417. General duty of conservator.**

261 (1) A conservator shall act as a fiduciary and shall observe the standards of care as set forth
262 in Section [~~75-7-302~~] 75-7-902.

263 (2) The conservator shall, for all estates in excess of \$50,000, excluding the residence
264 owned by the ward, send a report with a full accounting to the court on an annual basis. For estates
265 less than \$50,000, excluding the residence owned by the ward, the conservator shall fill out an
266 informal annual report and mail the report to the court. The report shall include the following: a
267 statement of assets at the beginning and end of the reporting year, income received during the year,
268 disbursements for the support of the ward, and other expenses incurred by the estate. The court
269 may require additional information. The forms for both the informal report for estates under
270 \$50,000, excluding the residence owned by the ward, and the full accounting report for larger
271 estates shall be approved by the judicial council. This annual report shall be examined and
272 approved by the court.

273 (3) Corporate fiduciaries are not required to fully petition the court, but shall submit their
274 internal report annually to the court. The report shall be examined and approved by the court.

275 (4) If a conservator or corporate fiduciary:

- 276 (a) makes a substantial misstatement on filings of any required annual reports;
- 277 (b) is guilty of gross impropriety in handling the property of the ward; or
- 278 (c) willfully fails to file the report required by this section, after receiving written notice
- 279 of the failure to file and after a grace period of two months have elapsed; then the court may
- 280 impose a fine in an amount not to exceed \$5,000. The court may also order restitution of funds
- 281 misappropriated from the estate of a ward. The penalty shall be paid by the conservator or
- 282 corporate fiduciary and may not be paid by the estate.

283 (5) These provisions and penalties governing annual reports do not apply if the conservator
 284 is the parent of the ward.

285 Section 8. Section **75-7-101** is repealed and reenacted to read:

286 **CHAPTER 7. UTAH UNIFORM TRUST CODE**

287 **Part 1. General Provisions**

288 **75-7-101. Title.**

289 This chapter is known as the "Utah Uniform Trust Code."

290 Section 9. Section **75-7-102** is enacted to read:

291 **75-7-102. Scope.**

292 This chapter applies to express trusts, charitable or noncharitable, and trusts created
 293 pursuant to a statute, judgment, or decree that requires the trust to be administered in the manner
 294 of an express trust.

295 Section 10. Section **75-7-103** is enacted to read:

296 **75-7-103. Definitions.**

297 In this chapter:

298 (1) "Action," with respect to an act of a trustee, includes a failure to act.

299 (2) "Beneficiary" means a person that:

300 (a) has a present or future beneficial interest in a trust, vested or contingent; or

301 (b) in a capacity other than that of trustee, holds a power of appointment over trust
 302 property.

303 (3) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose
 304 described in Subsection 75-7-405(1).

305 (4) "Conservator" means a person appointed by the court to administer the estate of a
 306 minor or adult individual.

307 (5) "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance
308 relating to protection of the environment.

309 (6) "Guardian" means a person appointed by the court, a parent, or a spouse, to make
310 decisions regarding the support, care, education, health, and welfare of a minor or adult individual.
311 The term does not include a guardian ad litem.

312 (7) "Interests of the beneficiaries" means the beneficial interests provided in the terms of
313 the trust.

314 (8) "Jurisdiction," with respect to a geographic area, includes a state or country.

315 (9) "Person" means an individual, corporation, business trust, estate, trust, partnership,
316 limited liability company, association, joint venture, government, governmental subdivision,
317 governmental agency or instrumentality, public corporation, or any other legal or commercial
318 entity.

319 (10) "Power of withdrawal" means a presently exercisable general power of appointment
320 other than a power exercisable only upon consent of the trustee or a person holding an adverse
321 interest.

322 (11) "Property" means anything that may be the subject of ownership, whether real or
323 personal, legal or equitable, or any interest therein.

324 (12) "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's
325 qualification is determined:

326 (a) is a distributee or permissible distributee of trust income or principal;

327 (b) would be a distributee or permissible distributee of trust income or principal if the
328 interests of the distributees described in Subsection (12)(a) terminated on that date; or

329 (c) would be a distributee or permissible distributee of trust income or principal if the trust
330 terminated on that date.

331 (13) "Revocable," as applied to a trust, means revocable by the settlor without the consent
332 of the trustee or a person holding an adverse interest.

333 (14) "Settlor" means a person, including a testator, who creates, or contributes property
334 to, a trust. If more than one person creates or contributes property to a trust, each person is a
335 settlor of the portion of the trust property attributable to that person's contribution except to the
336 extent another person has the power to revoke or withdraw that portion.

337 (15) "Spendthrift provision" means a term of a trust which restrains both voluntary and

338 involuntary transfer of a beneficiary's interest.

339 (16) "State" means a state of the United States, the District of Columbia, Puerto Rico, the
340 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the
341 United States. The term includes an Indian tribe or band recognized by federal law or formally
342 acknowledged by a state.

343 (17) "Terms of a trust" means the manifestation of the settlor's intent regarding a trust's
344 provisions as expressed in the trust instrument or as may be established by other evidence that
345 would be admissible in a judicial proceeding.

346 (18) "Trust instrument" means an instrument executed by the settlor that contains terms
347 of the trust, including any amendments.

348 (19) "Trustee" includes an original, additional, and successor trustee, and a cotrustee.

349 Section 11. Section **75-7-104** is enacted to read:

350 **75-7-104. Knowledge.**

351 (1) Subject to Subsection (2), a person has knowledge of a fact if the person:

352 (a) has actual knowledge of it;

353 (b) has received a notice or notification of it; or

354 (c) from all the facts and circumstances known to the person at the time in question, has
355 reason to know it.

356 (2) An organization that conducts activities through employees has notice or knowledge
357 of a fact involving a trust only from the time the information was received by an employee having
358 responsibility to act for the trust, or would have been brought to the employee's attention if the
359 organization had exercised reasonable diligence. An organization exercises reasonable diligence
360 if it maintains reasonable routines for communicating significant information to the employee
361 having responsibility to act for the trust and there is reasonable compliance with the routines.

362 Reasonable diligence does not require an employee of the organization to communicate

363 information unless the communication is part of the individual's regular duties or the individual

364 knows a matter involving the trust would be materially affected by the information.

365 Section 12. Section **75-7-105** is enacted to read:

366 **75-7-105. Default and mandatory rules.**

367 (1) Except as otherwise provided in the terms of the trust, this chapter governs the duties

368 and powers of a trustee, relations among trustees, and the rights and interests of a beneficiary.

- 369 (2) The terms of a trust prevail over any provision of this chapter except:
370 (a) the requirements for creating a trust;
371 (b) the duty of a trustee to act in good faith and in accordance with the purposes of the
372 trust;
373 (c) the requirement that a trust and its terms be for the benefit of its beneficiaries;
374 (d) the power of the court to modify or terminate a trust under Sections 75-7-410 through
375 75-7-416;
376 (e) the effect of a spendthrift provision and the rights of certain creditors and assignees to
377 reach a trust as provided in Part 5, Creditor's Claims - Spendthrift and Discretionary Trusts;
378 (f) the power of the court under Section 75-7-702 to require, dispense with, or modify or
379 terminate a bond;
380 (g) the power of the court under Subsection 75-7-708(2) to adjust a trustee's compensation
381 specified in the terms of the trust which is unreasonably low or high;
382 (h) the duty to notify the qualified beneficiaries of an irrevocable trust who have attained
383 25 years of age of the existence of the trust and of their right to request trustee's reports and other
384 information reasonably related to the administration of the trust;
385 (i) the duty to respond to the request of a beneficiary of an irrevocable trust for trustee's
386 reports and other information reasonably related to the administration of a trust;
387 (j) the effect of an exculpatory term under Section 75-7-1008;
388 (k) the rights under Sections 75-7-1010 through 75-7-1013 of a person other than a trustee
389 or beneficiary;
390 (l) periods of limitation for commencing a judicial proceeding;
391 (m) the power of the court to take action and exercise jurisdiction that may be necessary
392 in the interests of justice; and
393 (n) the subject matter jurisdiction of the court and venue for commencing a proceeding as
394 provided in Sections 75-7-203 and 75-7-204.

395 Section 13. Section **75-7-106** is enacted to read:

396 **75-7-106. Common law of trusts -- Principles of equity.**

397 The common law of trusts and principles of equity supplement this chapter, except to the
398 extent modified by this chapter or other laws of this state.

399 Section 14. Section **75-7-107** is enacted to read:

400 **75-7-107. Governing law.**

401 The meaning and effect of the terms of a trust are determined by:

402 (1) the law of the jurisdiction designated in the terms unless the designation of that
403 jurisdiction's law is contrary to a strong public policy of the jurisdiction having the most significant
404 relationship to the matter at issue; or

405 (2) in the absence of a controlling designation in the terms of the trust, the law of the
406 jurisdiction having the most significant relationship to the matter at issue.

407 Section 15. Section **75-7-108** is enacted to read:

408 **75-7-108. Principal place of administration.**

409 (1) Without precluding other means for establishing a sufficient connection with the
410 designated jurisdiction, terms of a trust designating the principal place of administration are valid
411 and controlling if:

412 (a) a trustee's principal place of business is located in or a trustee is a resident of the
413 designated jurisdiction; or

414 (b) all or part of the administration occurs in the designated jurisdiction.

415 (2) A trustee is under a continuing duty to administer the trust at a place appropriate to its
416 purposes, its administration, and the interests of the beneficiaries.

417 (3) Without precluding the right of the court to order, approve, or disapprove a transfer,
418 the trustee, in furtherance of the duty prescribed by Subsection (2), may transfer the trust's
419 principal place of administration to another state or to a jurisdiction outside of the United States.

420 (4) The trustee shall notify the qualified beneficiaries of a proposed transfer of a trust's
421 principal place of administration not less than 60 days before initiating the transfer. The notice of
422 proposed transfer must include:

423 (a) the name of the jurisdiction to which the principal place of administration is to be
424 transferred;

425 (b) the address and telephone number at the new location at which the trustee can be
426 contacted;

427 (c) an explanation of the reasons for the proposed transfer;

428 (d) the date on which the proposed transfer is anticipated to occur; and

429 (e) the date, not less than 60 days after the giving of the notice, by which the qualified
430 beneficiary must notify the trustee of an objection to the proposed transfer.

431 (5) The authority of a trustee under this section to transfer a trust's principal place of
432 administration terminates if a qualified beneficiary notifies the trustee of an objection to the
433 proposed transfer on or before the date specified in the notice.

434 (6) In connection with a transfer of the trust's principal place of administration, the trustee
435 may transfer some or all of the trust property to a successor trustee designated in the terms of the
436 trust or appointed pursuant to Section 75-7-704.

437 Section 16. Section **75-7-109** is enacted to read:

438 **75-7-109. Methods and waiver of notice.**

439 (1) Notice to a person under this chapter or the sending of a document to a person under
440 this chapter must be accomplished in a manner reasonably suitable under the circumstances and
441 likely to result in receipt of the notice or document. Permissible methods of notice or for sending
442 a document include first-class mail, personal delivery, delivery to the person's last known place
443 of residence or place of business, or a properly directed electronic message.

444 (2) Notice otherwise required under this chapter or a document otherwise required to be
445 sent under this chapter need not be provided to a person whose identity or location is unknown to
446 and not reasonably ascertainable by the trustee.

447 (3) Notice under this chapter or the sending of a document under this chapter may be
448 waived by the person to be notified or sent the document.

449 (4) Notice of a judicial proceeding must be given as provided in the applicable rules of
450 civil procedure.

451 Section 17. Section **75-7-110** is enacted to read:

452 **75-7-110. Others treated as qualified beneficiaries.**

453 (1) Whenever notice to qualified beneficiaries of a trust is required under this chapter, the
454 trustee must also give notice to any other beneficiary who has sent the trustee a request for notice.

455 (2) A charitable organization expressly entitled to receive benefits under the terms of a
456 charitable trust or a person appointed to enforce a trust created for the care of an animal or another
457 noncharitable purpose as provided in Section 75-7-408 or 75-7-409 has the rights of a qualified
458 beneficiary under this chapter.

459 (3) The attorney general has the rights of a qualified beneficiary with respect to a charitable
460 trust having its principal place of administration in this state.

461 Section 18. Section **75-7-111** is enacted to read:

462 **75-7-111. Nonjudicial settlement agreements.**

463 (1) For purposes of this section, "interested persons" means persons whose consent would
464 be required in order to achieve a binding settlement were the settlement to be approved by the
465 court.

466 (2) Except as otherwise provided in Subsection (3), interested persons may enter into a
467 binding nonjudicial settlement agreement with respect to any matter involving a trust.

468 (3) A nonjudicial settlement agreement is valid only to the extent it does not violate a
469 material purpose of the trust and includes terms and conditions that could be properly approved
470 by the court under this chapter or other applicable law.

471 (4) Matters that may be resolved by a nonjudicial settlement agreement include:

472 (a) the interpretation or construction of the terms of the trust;

473 (b) the approval of a trustee's report or accounting;

474 (c) direction to a trustee to refrain from performing a particular act or the grant to a trustee
475 of any necessary or desirable power;

476 (d) the resignation or appointment of a trustee and the determination of a trustee's
477 compensation;

478 (e) transfer of a trust's principal place of administration; and

479 (f) liability of a trustee for an action relating to the trust.

480 (5) Any interested person may request the court to approve a nonjudicial settlement
481 agreement, to determine whether the representation as provided in Part 3, Representation, was
482 adequate, and to determine whether the agreement contains terms and conditions the court could
483 have properly approved.

484 Section 19. Section **75-7-112** is enacted to read:

485 **75-7-112. Rules of construction.**

486 The rules of construction that apply to the interpretation of and disposition of property by
487 will also apply as appropriate to the interpretation of the terms of a trust and the disposition of the
488 trust property.

489 Section 20. Section **75-7-201** is repealed and reenacted to read:

490 **Part 2. Judicial Proceedings**491 **75-7-201. Role of court in administration of trust.**

492 (1) The court may intervene in the administration of a trust to the extent its jurisdiction is

493 invoked by an interested person or as provided by law.

494 (2) A trust is not subject to continuing judicial supervision unless ordered by the court.

495 (3) A judicial proceeding involving a trust may relate to any matter involving the trust's
496 administration, including a request for instructions and an action to declare rights.

497 Section 21. Section **75-7-202** is repealed and reenacted to read:

498 **75-7-202. Jurisdiction over trustee and beneficiary.**

499 (1) By accepting the trusteeship of a trust having its principal place of administration in
500 this state or by moving the principal place of administration to this state, the trustee submits
501 personally to the jurisdiction of the courts of this state regarding any matter involving the trust.

502 (2) With respect to their interests in the trust, the beneficiaries of a trust having its
503 principal place of administration in this state are subject to the jurisdiction of the courts of this
504 state regarding any matter involving the trust. By accepting a distribution from such a trust, the
505 recipient submits personally to the jurisdiction of the courts of this state regarding any matter
506 involving the trust.

507 (3) This section does not preclude other methods of obtaining jurisdiction over a trustee,
508 beneficiary, or other person receiving property from the trust.

509 Section 22. Section **75-7-203** is repealed and reenacted to read:

510 **75-7-203. Subject matter jurisdiction.**

511 (1) The district court has exclusive jurisdiction of proceedings in this state brought by a
512 trustee or beneficiary concerning the administration of a trust.

513 (2) The district court has concurrent jurisdiction with other courts of this state of other
514 proceedings involving a trust.

515 Section 23. Section **75-7-204** is repealed and reenacted to read:

516 **75-7-204. Venue.**

517 (1) Except as otherwise provided in Subsection (2), venue for a judicial proceeding
518 involving a trust is in the county in which the trust's principal place of administration is or will be
519 located and, if the trust is created by will and the estate is not yet closed, in the county in which
520 the decedent's estate is being administered.

521 (2) If a trust has no trustee, venue for a judicial proceeding for the appointment of a trustee
522 is in any county of this state in which a beneficiary resides, in any county in which any trust
523 property is located, and if the trust is created by will, in the county in which the decedent's estate

524 was or is being administered.

525 Section 24. Section **75-7-301** is repealed and reenacted to read:

526 **Part 3. Representation**

527 **75-7-301. Basic effect.**

528 (1) Notice to a person who may represent and bind another person under this part has the
529 same effect as if notice were given directly to the other person.

530 (2) The consent of a person who may represent and bind another person under this part is
531 binding on the person represented unless the person represented objects to the representation
532 before the consent would otherwise have become effective.

533 (3) Except as otherwise provided in Sections 75-7-411 and 75-7-602, a person who under
534 this part may represent a settlor who lacks capacity may receive notice and give a binding consent
535 on the settlor's behalf.

536 Section 25. Section **75-7-302** is repealed and reenacted to read:

537 **75-7-302. Representation by holder of general testamentary power of appointment.**

538 To the extent there is no conflict of interest between the holder of a general testamentary
539 power of appointment and the persons represented with respect to the particular question or
540 dispute, the holder may represent and bind persons whose interests, as permissible appointees,
541 takers in default, or otherwise, are subject to the power.

542 Section 26. Section **75-7-303** is repealed and reenacted to read:

543 **75-7-303. Representation by fiduciaries and parents.**

544 To the extent there is no conflict of interest between the representative and the person
545 represented or among those being represented with respect to a particular question or dispute:

546 (1) a conservator may represent and bind the estate that the conservator controls;

547 (2) a guardian may represent and bind a ward if a conservator of the ward's estate has not
548 been appointed;

549 (3) an agent having authority to act with respect to the particular question or dispute may
550 represent and bind the principal;

551 (4) a trustee may represent and bind the beneficiaries of the trust;

552 (5) a personal representative of a decedent's estate may represent and bind persons
553 interested in the estate; and

554 (6) a parent may represent and bind the parent's minor or unborn child if a conservator or

555 guardian for the child has not been appointed.

556 Section 27. Section **75-7-304** is repealed and reenacted to read:

557 **75-7-304. Representation by person having substantially identical interest.**

558 Unless otherwise represented, a minor, incapacitated, or unborn individual, or a person
559 whose identity or location is unknown and not reasonably ascertainable, may be represented by and
560 bound by another having a substantially identical interest with respect to the particular question
561 or dispute, but only to the extent there is no conflict of interest between the representative and the
562 person represented.

563 Section 28. Section **75-7-305** is repealed and reenacted to read:

564 **75-7-305. Appointment of representative.**

565 (1) If the court determines that an interest is not represented under this part, or that the
566 otherwise available representation might be inadequate, the court may appoint a representative to
567 receive notice, give consent, and otherwise represent, bind, and act on behalf of a minor,
568 incapacitated, or unborn individual, or a person whose identity or location is unknown. A
569 representative may be appointed to represent several persons or interests.

570 (2) A representative may act on behalf of the individual represented with respect to any
571 matter arising under this chapter, whether or not a judicial proceeding concerning the trust is
572 pending.

573 (3) In making decisions, a representative may consider general benefit accruing to the
574 living members of the individual's family.

575 Section 29. Section **75-7-401** is repealed and reenacted to read:

576 **Part 4. Creation, Validity, Modification, and Termination**

577 **75-7-401. Methods of creating trust.**

578 A trust may be created by:

579 (1) transfer of property to another person as trustee during the settlor's lifetime or by will
580 or other disposition taking effect upon the settlor's death;

581 (2) declaration by the owner of property that the owner holds identifiable property as
582 trustee; or

583 (3) exercise of a power of appointment in favor of a trustee.

584 Section 30. Section **75-7-402** is repealed and reenacted to read:

585 **75-7-402. Requirements for creation.**

586 (1) A trust is created only if:

587 (a) the settlor has capacity to create a trust;

588 (b) the settlor indicates an intention to create the trust;

589 (c) the trust has a definite beneficiary or is:

590 (i) a charitable trust;

591 (ii) a trust for the care of an animal, as provided in Section 75-7-408; or

592 (iii) a trust for a noncharitable purpose, as provided in Section 75-7-409;

593 (d) the trustee has duties to perform; and

594 (e) the same person is not the sole trustee and sole beneficiary.

595 (2) A beneficiary is definite if the beneficiary can be ascertained now or in the future,

596 subject to any applicable rule against perpetuities.

597 (3) A power in a trustee to select a beneficiary from an indefinite class is valid. If the
598 power is not exercised within a reasonable time, the power fails and the property subject to the
599 power passes to the persons who would have taken the property had the power not been conferred.

600 Section 31. Section **75-7-403** is repealed and reenacted to read:

601 **75-7-403. Trusts created in other jurisdictions.**

602 A trust not created by will is validly created if its creation complies with the law of the
603 jurisdiction in which the trust instrument was executed, or the law of the jurisdiction in which, at
604 the time of creation:

605 (1) the settlor was domiciled, had a place of abode, or was a national;

606 (2) a trustee was domiciled or had a place of business; or

607 (3) any trust property was located.

608 Section 32. Section **75-7-404** is repealed and reenacted to read:

609 **75-7-404. Trust purposes.**

610 A trust may be created only to the extent its purposes are lawful, not contrary to public
611 policy, and possible to achieve. A trust and its terms must be for the benefit of its beneficiaries.

612 Section 33. Section **75-7-405** is repealed and reenacted to read:

613 **75-7-405. Charitable purposes -- Enforcement.**

614 (1) A charitable trust may be created for the relief of poverty, the advancement of
615 education or religion, the promotion of health, governmental or municipal purposes, or other
616 purposes the achievement of which is beneficial to the community.

617 (2) If the terms of a charitable trust do not indicate a particular charitable purpose or
618 beneficiary, the court may select one or more charitable purposes or beneficiaries. The selection
619 must be consistent with the settlor's intention to the extent it can be ascertained.

620 (3) The settlor of a charitable trust, among others, may maintain a proceeding to enforce
621 the trust.

622 Section 34. Section **75-7-406** is repealed and reenacted to read:

623 **75-7-406. Creation of trust induced by fraud, duress, or undue influence.**

624 A trust is void to the extent its creation was induced by fraud, duress, or undue influence.

625 Section 35. Section **75-7-407** is repealed and reenacted to read:

626 **75-7-407. Evidence of oral trust.**

627 Except as required by a statute other than this chapter, a trust need not be evidenced by a
628 trust instrument, but the creation of an oral trust and its terms may be established only by clear and
629 convincing evidence.

630 Section 36. Section **75-7-408** is repealed and reenacted to read:

631 **75-7-408. Trust for care of animal.**

632 (1) A trust may be created to provide for the care of an animal alive during the settlor's
633 lifetime. The trust terminates upon the death of the animal or, if the trust was created to provide
634 for the care of more than one animal alive during the settlor's lifetime, upon the death of the last
635 surviving animal.

636 (2) A trust authorized by this section may be enforced by a person appointed in the terms
637 of the trust or, if no person is so appointed, by a person appointed by the court. A person having
638 an interest in the welfare of the animal may request the court to appoint a person to enforce the
639 trust or to remove a person appointed.

640 (3) Property of a trust authorized by this section may be applied only to its intended use,
641 except to the extent the court determines that the value of the trust property exceeds the amount
642 required for the intended use. Except as otherwise provided in the terms of the trust, property not
643 required for the intended use must be distributed to the settlor, if then living, otherwise to the
644 settlor's successors in interest.

645 Section 37. Section **75-7-409** is repealed and reenacted to read:

646 **75-7-409. Noncharitable trust without ascertainable beneficiary.**

647 Except as otherwise provided in Section 76-7-408 or by another statute, the following rules

648 apply:

649 (1) A trust may be created for a noncharitable purpose without a definite or definitely
650 ascertainable beneficiary or for a noncharitable but otherwise valid purpose to be selected by the
651 trustee. The trust may not be enforced for more than 21 years.

652 (2) A trust authorized by this section may be enforced by a person appointed in the terms
653 of the trust or, if no person is so appointed, by a person appointed by the court.

654 (3) Property of a trust authorized by this section may be applied only to its intended use,
655 except to the extent the court determines that the value of the trust property exceeds the amount
656 required for the intended use. Except as otherwise provided in the terms of the trust, property not
657 required for the intended use must be distributed to the settlor, if then living, otherwise to the
658 settlor's successors in interest.

659 Section 38. Section **75-7-410** is repealed and reenacted to read:

660 **75-7-410. Modification or termination of trust -- Proceedings for approval or**
661 **disapproval.**

662 (1) In addition to the methods of termination prescribed by Sections 75-7-411 through
663 75-7-414, a trust terminates to the extent the trust is revoked or expires pursuant to its terms, no
664 purpose of the trust remains to be achieved, or the purposes of the trust have become unlawful,
665 contrary to public policy, or impossible to achieve.

666 (2) A proceeding to approve or disapprove a proposed modification or termination under
667 Sections 75-7-411 through 75-7-416, or trust combination or division under Section 75-7-417, may
668 be commenced by a trustee or beneficiary, and a proceeding to approve or disapprove a proposed
669 modification or termination under Section 75-7-411 may be commenced by the settlor. The settlor
670 of a charitable trust may maintain a proceeding to modify the trust under Section 75-7-413.

671 Section 39. Section **75-7-411** is repealed and reenacted to read:

672 **75-7-411. Modification or termination of noncharitable irrevocable trust by consent.**

673 (1) A noncharitable irrevocable trust may be modified or terminated upon consent of the
674 settlor and all beneficiaries, even if the modification or termination is inconsistent with a material
675 purpose of the trust. A settlor's power to consent to a trust's termination may be exercised by an
676 agent under a power of attorney only to the extent expressly authorized by the power of attorney
677 or the terms of the trust; by the settlor's conservator with the approval of the court supervising the
678 conservatorship if an agent is not so authorized; or by the settlor's guardian with the approval of

679 the court supervising the guardianship if an agent is not so authorized and a conservator has not
680 been appointed.

681 (2) A noncharitable irrevocable trust may be terminated upon consent of all of the
682 beneficiaries if the court concludes that continuance of the trust is not necessary to achieve any
683 material purpose of the trust. A noncharitable irrevocable trust may be modified upon consent of
684 all of the beneficiaries if the court concludes that modification is not inconsistent with a material
685 purpose of the trust.

686 (3) A spendthrift provision in the terms of the trust is not presumed to constitute a material
687 purpose of the trust.

688 (4) Upon termination of a trust under Subsection (1) or (2), the trustee shall distribute the
689 trust property as agreed by the beneficiaries.

690 (5) If not all of the beneficiaries consent to a proposed modification or termination of the
691 trust under Subsection (1) or (2), the modification or termination may be approved by the court if
692 the court is satisfied that:

693 (a) if all of the beneficiaries had consented, the trust could have been modified or
694 terminated under this section; and

695 (b) the interests of a beneficiary who does not consent will be adequately protected.

696 Section 40. Section **75-7-412** is enacted to read:

697 **75-7-412. Modification or termination because of unanticipated circumstances or**
698 **inability to administer trust effectively.**

699 (1) The court may modify the administrative or dispositive terms of a trust or terminate
700 the trust if, because of circumstances not anticipated by the settlor, modification or termination will
701 further the purposes of the trust. To the extent practicable, the modification must be made in
702 accordance with the settlor's probable intention.

703 (2) The court may modify the administrative terms of a trust if continuation of the trust on
704 its existing terms would be impracticable or wasteful or impair the trust's administration.

705 (3) Upon termination of a trust under this section, the trustee shall distribute the trust
706 property in a manner consistent with the purposes of the trust.

707 Section 41. Section **75-7-413** is enacted to read:

708 **75-7-413. Cy pres.**

709 (1) Except as otherwise provided in Subsection (2), if a particular charitable purpose

710 becomes unlawful, impracticable, impossible to achieve, or wasteful:

711 (a) the trust does not fail, in whole or in part;

712 (b) the trust property does not revert to the settlor or the settlor's successors in interest; and

713 (c) the court may apply cy pres to modify or terminate the trust by directing that the trust

714 property be applied or distributed, in whole or in part, in a manner consistent with the settlor's

715 charitable purposes.

716 (2) A provision in the terms of a charitable trust that would result in distribution of the

717 trust property to a noncharitable beneficiary prevails over the power of the court under Subsection

718 (1) to apply cy pres to modify or terminate the trust only if, when the provision takes effect:

719 (a) the trust property is to revert to the settlor and the settlor is still living; or

720 (b) fewer than 21 years have elapsed since the date of the trust's creation.

721 Section 42. Section **75-7-414** is enacted to read:

722 **75-7-414. Modification of termination of uneconomic trust.**

723 (1) After notice to the qualified beneficiaries, the trustee of a trust consisting of trust

724 property having a total value less than \$50,000 may terminate the trust if the trustee concludes that

725 the value of the trust property is insufficient to justify the cost of administration.

726 (2) The court may modify or terminate a trust or remove the trustee and appoint a different

727 trustee if it determines that the value of the trust property is insufficient to justify the cost of

728 administration.

729 (3) Upon termination of a trust under this section, the trustee shall distribute the trust

730 property in a manner consistent with the purposes of the trust.

731 (4) This section does not apply to an easement for conservation or preservation.

732 Section 43. Section **75-7-415** is enacted to read:

733 **75-7-415. Reformation to correct mistakes.**

734 The court may reform the terms of a trust, even if unambiguous, to conform the terms to

735 the settlor's intention if it is proved by clear and convincing evidence that both the settlor's intent

736 and the terms of the trust were affected by a mistake of fact or law, whether in expression or

737 inducement.

738 Section 44. Section **75-7-416** is enacted to read:

739 **75-7-416. Modification to achieve settlor's tax objectives.**

740 To achieve the settlor's tax objectives, the court may modify the terms of a trust in a

741 manner that is not contrary to the settlor's probable intention. The court may provide that the
742 modification has retroactive effect.

743 Section 45. Section **75-7-417** is enacted to read:

744 **75-7-417. Combination and division of trusts.**

745 After notice to the qualified beneficiaries, a trustee may combine two or more trusts into
746 a single trust or divide a trust into two or more separate trusts, if the result does not impair rights
747 of any beneficiary or adversely affect achievement of the purposes of the trust.

748 Section 46. Section **75-7-501** is repealed and reenacted to read:

749 **Part 5. Creditor's Claims - Spendthrift and Discretionary Trusts**

750 **75-7-501. Rights of beneficiary's creditor or assignee.**

751 To the extent a beneficiary's interest is not protected by a spendthrift provision, the court
752 may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest by
753 attachment of present or future distributions to or for the benefit of the beneficiary or other means.
754 The court may limit the award to relief as is appropriate under the circumstances.

755 Section 47. Section **75-7-502** is enacted to read:

756 **75-7-502. Spendthrift provision.**

757 (1) A spendthrift provision is valid only if it restrains both voluntary and involuntary
758 transfer of a beneficiary's interest.

759 (2) A term of a trust providing that the interest of a beneficiary is held subject to a
760 "spendthrift trust," or words of similar import, is sufficient to restrain both voluntary and
761 involuntary transfer of the beneficiary's interest.

762 (3) A beneficiary may not transfer an interest in a trust in violation of a valid spendthrift
763 provision and, except as otherwise provided in this part, a creditor or assignee of the beneficiary
764 may not reach the interest or a distribution by the trustee before its receipt by the beneficiary.

765 Section 48. Section **75-7-503** is enacted to read:

766 **75-7-503. Exceptions to spendthrift provision.**

767 (1) In this section, "child" includes any person for whom an order or judgment for child
768 support has been entered in this or another state.

769 (2) Even if a trust contains a spendthrift provision, a beneficiary's child, spouse, or former
770 spouse who has a judgment or court order against the beneficiary for support or maintenance, or
771 a judgment creditor who has provided services for the protection of a beneficiary's interest in the

772 trust, may obtain from a court an order attaching present or future distributions to or for the benefit
773 of the beneficiary.

774 (3) A spendthrift provision is unenforceable against a claim of this state or the United
775 States to the extent a statute of this state or federal law so provides.

776 Section 49. Section **75-7-504** is enacted to read:

777 **75-7-504. Discretionary trusts -- Effect of standard.**

778 (1) In this section, "child" includes any person for whom an order or judgment for child
779 support has been entered in this or another state.

780 (2) Except as otherwise provided in Subsection (3), whether or not a trust contains a
781 spendthrift provision, a creditor of a beneficiary may not compel a distribution that is subject to
782 the trustee's discretion, even if:

783 (a) the discretion is expressed in the form of a standard of distribution; or

784 (b) the trustee has abused the discretion.

785 (3) To the extent a trustee has not complied with a standard of distribution or has abused
786 a discretion:

787 (a) a distribution may be ordered by the court to satisfy a judgment or court order against
788 the beneficiary for support or maintenance of the beneficiary's child, spouse, or former spouse; and

789 (b) the court shall direct the trustee to pay to the child, spouse, or former spouse such
790 amount as is equitable under the circumstances but not more than the amount the trustee would
791 have been required to distribute to or for the benefit of the beneficiary had the trustee complied
792 with the standard or not abused the discretion.

793 (4) This section does not limit the right of a beneficiary to maintain a judicial proceeding
794 against a trustee for an abuse of discretion or failure to comply with a standard for distribution.

795 Section 50. Section **75-7-505** is enacted to read:

796 **75-7-505. Creditor's claim against settlor.**

797 (1) Whether or not the terms of a trust contain a spendthrift provision, the following rules
798 apply:

799 (a) During the lifetime of the settlor, the property of a revocable trust is subject to claims
800 of the settlor's creditors.

801 (b) With respect to an irrevocable trust, a creditor or assignee of the settlor may reach the
802 maximum amount that can be distributed to or for the settlor's benefit. If a trust has more than one

803 settlor, the amount the creditor or assignee of a particular settlor may reach may not exceed the
804 settlor's interest in the portion of the trust attributable to that settlor's contribution.

805 (c) After the death of a settlor, and subject to the settlor's right to direct the source from
806 which liabilities will be paid, the property of a trust that was revocable at the settlor's death is
807 subject to claims of the settlor's creditors, costs of administration of the settlor's estate, the
808 expenses of the settlor's funeral and disposal of remains, and statutory allowances to a surviving
809 spouse and children to the extent the settlor's probate estate is inadequate to satisfy those claims,
810 costs, expenses, and allowances.

811 (2) For purposes of this section:

812 (a) during the period the power may be exercised, the holder of a power of withdrawal is
813 treated in the same manner as the settlor of a revocable trust to the extent of the property subject
814 to the power; and

815 (b) upon the lapse, release, or waiver of the power, the holder is treated as the settlor of
816 the trust only to the extent the value of the property affected by the lapse, release, or waiver
817 exceeds the greater of the amount specified in Section 2041(b)(2) or 2514(e) of the Internal
818 Revenue Code of 1986, or Section 2503(b) of the Internal Revenue Code of 1986, in each case as
819 in effect on May 1, 2002.

820 Section 51. Section **75-7-506** is enacted to read:

821 **75-7-506. Overdue distribution.**

822 Whether or not a trust contains a spendthrift provision, a creditor or assignee of a
823 beneficiary may reach a mandatory distribution of income or principal, including a distribution
824 upon termination of the trust, if the trustee has not made the distribution to the beneficiary within
825 a reasonable time after the required distribution date.

826 Section 52. Section **75-7-507** is enacted to read:

827 **75-7-507. Personal obligations of trustee.**

828 Trust property is not subject to personal obligations of the trustee, even if the trustee
829 becomes insolvent or bankrupt.

830 Section 53. Section **75-7-601** is enacted to read:

831 **Part 6. Revocable Trusts**

832 **75-7-601. Capacity of settlor of revocable trust.**

833 The capacity required to create, amend, revoke, or add property to a revocable trust, or to

834 direct the actions of the trustee of a revocable trust, is the same as that required to make a will.

835 Section 54. Section **75-7-602** is enacted to read:

836 **75-7-602. Revocation or amendment of revocable trust.**

837 (1) Unless the terms of a trust expressly provide that the trust is irrevocable, the settlor
838 may revoke or amend the trust. This Subsection (1) does not apply to a trust created under an
839 instrument executed before May 1, 2002.

840 (2) If a revocable trust is created or funded by more than one settlor:

841 (a) to the extent the trust consists of community property, the trust may be revoked by
842 either spouse acting alone but may be amended only by joint action of both spouses; and

843 (b) to the extent the trust consists of property other than community property, each settlor
844 may revoke or amend the trust with regard the portion of the trust property attributable to that
845 settlor's contribution.

846 (3) The settlor may revoke or amend a revocable trust:

847 (a) by substantially complying with a method provided in the terms of the trust; or

848 (b) if the terms of the trust do not provide a method or the method provided in the terms
849 is not expressly made exclusive, by:

850 (i) executing a later will or codicil that expressly refers to the trust or specifically devises
851 property that would otherwise have passed according to the terms of the trust; or

852 (ii) any other method manifesting clear and convincing evidence of the settlor's intent.

853 (4) Upon revocation of a revocable trust, the trustee shall deliver the trust property as the
854 settlor directs.

855 (5) A settlor's powers with respect to revocation, amendment, or distribution of trust
856 property may be exercised by an agent under a power of attorney only to the extent expressly
857 authorized by the terms of the trust or the power.

858 (6) A conservator of the settlor or, if no conservator has been appointed, a guardian of the
859 settlor may exercise a settlor's powers with respect to revocation, amendment, or distribution of
860 trust property only with the approval of the court supervising the conservatorship or guardianship.

861 (7) A trustee who does not know that a trust has been revoked or amended is not liable to
862 the settlor or settlor's successors in interest for distributions made and other actions taken on the
863 assumption that the trust had not been amended or revoked.

864 Section 55. Section **75-7-603** is enacted to read:

865 **75-7-603. Settlor's powers -- Powers of withdrawal.**

866 (1) While a trust is revocable and the settlor has capacity to revoke the trust, rights of the
867 beneficiaries are subject to the control of, and the duties of the trustee are owed exclusively to, the
868 settlor.

869 (2) While a trust is revocable and the settlor does not have capacity to revoke the trust,
870 rights of the beneficiaries are held by the beneficiaries.

871 (3) If a revocable trust has more than one settlor, the duties of the trustee are owed to all
872 of the settlors having capacity to revoke the trust.

873 (4) During the period the power may be exercised, the holder of a power of withdrawal has
874 the rights of a settlor of a revocable trust under this section to the extent of the property subject to
875 the power.

876 Section 56. Section **75-7-604** is enacted to read:

877 **75-7-604. Limitation on action contesting validity of revocable trust -- Distribution**
878 **of trust property.**

879 (1) A person may commence a judicial proceeding to contest the validity of a trust that was
880 revocable at the settlor's death within the earlier of:

881 (a) three years after the settlor's death; or

882 (b) 120 days after the trustee sent the person a copy of the trust instrument and a notice
883 informing the person of the trust's existence, of the trustee's name and address, and of the time
884 allowed for commencing a proceeding.

885 (2) Upon the death of the settlor of a trust that was revocable at the settlor's death, the
886 trustee may proceed to distribute the trust property in accordance with the terms of the trust. The
887 trustee is not subject to liability for doing so unless:

888 (a) the trustee knows of a pending judicial proceeding contesting the validity of the trust;

889 or

890 (b) a potential contestant has notified the trustee of a possible judicial proceeding to
891 contest the trust and a judicial proceeding is commenced within 60 days after the contestant sent
892 the notification.

893 (3) A beneficiary of a trust that is determined to have been invalid is liable to return any
894 distribution received.

895 Section 57. Section **75-7-701** is enacted to read:

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Part 7. Office of Trustee

75-7-701. Accepting or declining trusteeship.

(1) Except as otherwise provided in Subsection (3), a person designated as trustee accepts the trusteeship:

(a) by substantially complying with a method of acceptance provided in the terms of the trust; or

(b) if the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, by accepting delivery of the trust property, exercising powers or performing duties as trustee, or otherwise indicating acceptance of the trusteeship.

(2) A person designated as trustee who has not yet accepted the trusteeship may reject the trusteeship. A designated trustee who does not accept the trusteeship within a reasonable time after knowing of the designation is considered to have rejected the trusteeship.

(3) A person designated as trustee, without accepting the trusteeship, may:

(a) act to preserve the trust property if, within a reasonable time after acting, the person sends a rejection of the trusteeship to the settlor or, if the settlor is dead or lacks capacity, to a qualified beneficiary; and

(b) inspect or investigate trust property to determine potential liability under environmental or other law or for any other purpose.

Section 58. Section **75-7-702** is enacted to read:

75-7-702. Trustee's bond.

(1) A trustee shall give bond to secure performance of the trustee's duties only if the court finds that a bond is needed to protect the interests of the beneficiaries or is required by the terms of the trust and the court has not dispensed with the requirement.

(2) The court may specify the amount of a bond, its liabilities, and whether sureties are necessary. The court may modify or terminate a bond at any time.

(3) A regulated financial service institution qualified to do trust business in this state need not give bond, even if required by the terms of the trust.

Section 59. Section **75-7-703** is enacted to read:

75-7-703. Cotrustees.

(1) Cotrustees who are unable to reach a unanimous decision may act by majority decision.

(2) If a vacancy occurs in a cotrusteeship, the remaining cotrustees may act for the trust.

927 (3) A cotrustee must participate in the performance of a trustee's function unless the
928 cotrustee is unavailable to perform the function because of absence, illness, disqualification under
929 other law, or other temporary incapacity or the cotrustee has properly delegated the performance
930 of the function to another trustee.

931 (4) If a cotrustee is unavailable to perform duties because of absence, illness,
932 disqualification under other law, or other temporary incapacity, and prompt action is necessary to
933 achieve the purposes of the trust or to avoid injury to the trust property, the remaining cotrustee
934 or a majority of the remaining cotrustees may act for the trust.

935 (5) A trustee may not delegate to a cotrustee the performance of a function the settlor
936 reasonably expected the trustees to perform jointly. Unless a delegation was irrevocable, a trustee
937 may revoke a delegation previously made.

938 (6) Except as otherwise provided in Subsection (7), a trustee who does not join in an action
939 of another trustee is not liable for the action.

940 (7) Each trustee shall exercise reasonable care to:

941 (a) prevent a cotrustee from committing a serious breach of trust; and

942 (b) compel a cotrustee to redress a serious breach of trust.

943 (8) A dissenting trustee who joins in an action at the direction of the majority of the
944 trustees and who notified any cotrustee of the dissent at or before the time of the action is not liable
945 for the action unless the action is a serious breach of trust.

946 Section 60. Section **75-7-704** is enacted to read:

947 **75-7-704. Vacancy in trusteeship -- Appointment of successor.**

948 (1) A vacancy in a trusteeship occurs if:

949 (a) a person designated as trustee rejects the trusteeship;

950 (b) a person designated as trustee cannot be identified or does not exist;

951 (c) a trustee resigns;

952 (d) a trustee is disqualified or removed;

953 (e) a trustee dies; or

954 (f) a guardian or conservator is appointed for an individual serving as trustee.

955 (2) If one or more cotrustees remain in office, a vacancy in a trusteeship need not be filled.

956 A vacancy in a trusteeship must be filled if the trust has no remaining trustee.

957 (3) A vacancy in a trusteeship required to be filled must be filled in the following order

958 of priority:

- 959 (a) by a person designated in the terms of the trust to act as successor trustee;
960 (b) by a person appointed by unanimous agreement of the qualified beneficiaries; or
961 (c) by a person appointed by the court.
962 (4) Whether or not a vacancy in a trusteeship exists or is required to be filled, the court
963 may appoint an additional trustee or special fiduciary whenever the court considers the
964 appointment necessary for the administration of the trust.

965 Section 61. Section **75-7-705** is enacted to read:

966 **75-7-705. Resignation of trustee.**

967 (1) A trustee may resign:

- 968 (a) upon at least 30 days' notice to the qualified beneficiaries and all cotrustees; or
969 (b) with the approval of the court.

970 (2) In approving a resignation, the court may issue orders and impose conditions
971 reasonably necessary for the protection of the trust property.

972 (3) Any liability of a resigning trustee or of any sureties on the trustee's bond for acts or
973 omissions of the trustee is not discharged or affected by the trustee's resignation.

974 Section 62. Section **75-7-706** is enacted to read:

975 **75-7-706. Removal of trustee.**

976 (1) The settlor, a cotrustee, or a beneficiary may request the court to remove a trustee, or
977 a trustee may be removed by the court on its own initiative.

978 (2) The court may remove a trustee if:

- 979 (a) the trustee has committed a serious breach of trust;
980 (b) lack of cooperation among cotrustees substantially impairs the administration of the
981 trust;

982 (c) because of unfitness, unwillingness, or persistent failure of the trustee to administer the
983 trust effectively, the court determines that removal of the trustee best serves the interests of the
984 beneficiaries; or

985 (d) there has been a substantial change of circumstances or removal is requested by all of
986 the qualified beneficiaries, the court finds that removal of the trustee best serves the interests of
987 all of the beneficiaries and is not inconsistent with a material purpose of the trust, and a suitable
988 cotrustee or successor trustee is available.

989 (3) Pending a final decision on a request to remove a trustee, or in lieu of or in addition
990 to removing a trustee, the court may order appropriate relief under Subsection 75-7-1001(2)
991 necessary to protect the trust property or the interests of the beneficiaries.

992 Section 63. Section **75-7-707** is enacted to read:

993 **75-7-707. Delivery of property by former trustee.**

994 (1) Unless a cotrustee remains in office or the court otherwise orders, and until the trust
995 property is delivered to a successor trustee or other person entitled to it, a trustee who has resigned
996 or been removed has the duties of a trustee and the powers necessary to protect the trust property.

997 (2) A trustee who has resigned or been removed shall proceed expeditiously to deliver the
998 trust property within the trustee's possession to the cotrustee, successor trustee, or other person
999 entitled to it.

1000 Section 64. Section **75-7-708** is enacted to read:

1001 **75-7-708. Compensation of trustee.**

1002 (1) If the terms of a trust do not specify the trustee's compensation, a trustee is entitled to
1003 compensation that is reasonable under the circumstances.

1004 (2) If the terms of a trust specify the trustee's compensation, the trustee is entitled to be
1005 compensated as specified, but the court may allow more or less compensation if:

1006 (a) the duties of the trustee are substantially different from those contemplated when the
1007 trust was created; or

1008 (b) the compensation specified by the terms of the trust would be unreasonably low or
1009 high.

1010 Section 65. Section **75-7-709** is enacted to read:

1011 **75-7-709. Reimbursement of expenses.**

1012 (1) A trustee is entitled to be reimbursed out of the trust property, with interest as
1013 appropriate, for:

1014 (a) expenses that were properly incurred in the administration of the trust; and

1015 (b) to the extent necessary to prevent unjust enrichment of the trust, expenses that were
1016 not properly incurred in the administration of the trust.

1017 (2) An advance by the trustee of money for the protection of the trust gives rise to a lien
1018 against trust property to secure reimbursement with reasonable interest.

1019 Section 66. Section **75-7-801** is enacted to read:

1020 **Part 8. Duties and Powers of Trustee**1021 **75-7-801. Duty to administer trust.**

1022 Upon acceptance of a trusteeship, the trustee shall administer the trust in good faith, in
1023 accordance with its terms and purposes and the interests of the beneficiaries, and in accordance
1024 with this chapter.

1025 Section 67. Section **75-7-802** is enacted to read:

1026 **75-7-802. Duty of loyalty.**

1027 (1) A trustee shall administer the trust solely in the interests of the beneficiaries.

1028 (2) Subject to the rights of persons dealing with or assisting the trustee as provided in
1029 Section 75-7-1012, a sale, encumbrance, or other transaction involving the investment or
1030 management of trust property entered into by the trustee for the trustee's own personal account or
1031 which is otherwise affected by a conflict between the trustee's fiduciary and personal interests is
1032 voidable by a beneficiary affected by the transaction unless:

1033 (a) the transaction was authorized by the terms of the trust;

1034 (b) the transaction was approved by the court;

1035 (c) the beneficiary did not commence a judicial proceeding within the time allowed by
1036 Section 75-7-1005;

1037 (d) the beneficiary consented to the trustee's conduct, ratified the transaction, or released
1038 the trustee in compliance with Section 75-7-1009; or

1039 (e) the transaction involves a contract entered into or claim acquired by the trustee before
1040 the person became or contemplated becoming trustee.

1041 (3) A sale, encumbrance, or other transaction involving the investment or management of
1042 trust property is presumed to be affected by a conflict between personal and fiduciary interests if
1043 it is entered into by the trustee with:

1044 (a) the trustee's spouse;

1045 (b) the trustee's descendants, siblings, parents, or their spouses;

1046 (c) an agent or attorney of the trustee; or

1047 (d) a corporation or other person or enterprise in which the trustee, or a person that owns
1048 a significant interest in the trustee, has an interest that might affect the trustee's best judgment.

1049 (4) A transaction between a trustee and a beneficiary that does not concern trust property
1050 but that occurs during the existence of the trust or while the trustee retains significant influence

1051 over the beneficiary and from which the trustee obtains an advantage is voidable by the beneficiary
1052 unless the trustee establishes that the transaction was fair to the beneficiary.

1053 (5) A transaction not concerning trust property in which the trustee engages in the trustee's
1054 individual capacity involves a conflict between personal and fiduciary interests if the transaction
1055 concerns an opportunity properly belonging to the trust.

1056 (6) An investment by a trustee in securities of an investment company or investment trust
1057 to which the trustee, or its affiliate, provides services in a capacity other than as trustee is not
1058 presumed to be affected by a conflict between personal and fiduciary interests if the investment
1059 complies with the prudent investor rule of Section 75-7-901. The trustee may be compensated by
1060 the investment company or investment trust for providing those services out of fees charged to the
1061 trust if the trustee at least annually notifies the persons entitled under Section 75-7-813 to receive
1062 a copy of the trustee's annual report of the rate and method by which the compensation was
1063 determined.

1064 (7) In voting shares of stock or in exercising powers of control over similar interests in
1065 other forms of enterprise, the trustee shall act in the best interests of the beneficiaries. If the trust
1066 is the sole owner of a corporation or other form of enterprise, the trustee shall elect or appoint
1067 directors or other managers who will manage the corporation or enterprise in the best interests of
1068 the beneficiaries.

1069 (8) This section does not preclude the following transactions, if fair to the beneficiaries:

1070 (a) an agreement between a trustee and a beneficiary relating to the appointment or
1071 compensation of the trustee;

1072 (b) payment of reasonable compensation to the trustee;

1073 (c) a transaction between a trust and another trust, decedent's estate, or conservatorship of
1074 which the trustee is a fiduciary or in which a beneficiary has an interest;

1075 (d) a deposit of trust money in a regulated financial service institution operated by the
1076 trustee; or

1077 (e) an advance by the trustee of money for the protection of the trust.

1078 (9) The court may appoint a special fiduciary to make a decision with respect to any
1079 proposed transaction that might violate this section if entered into by the trustee.

1080 Section 68. Section **75-7-803** is enacted to read:

1081 **75-7-803. Impartiality.**

1082 If a trust has two or more beneficiaries, the trustee shall act impartially in investing,
1083 managing, and distributing the trust property, giving due regard to the beneficiaries' respective
1084 interests.

1085 Section 69. Section **75-7-804** is enacted to read:

1086 **75-7-804. Prudent administration.**

1087 A trustee shall administer the trust as a prudent person would, by considering the purposes,
1088 terms, distributional requirements, and other circumstances of the trust. In satisfying this standard,
1089 the trustee shall exercise reasonable care, skill, and caution.

1090 Section 70. Section **75-7-805** is enacted to read:

1091 **75-7-805. Costs of administration.**

1092 In administering a trust, the trustee may incur only costs that are reasonable in relation to
1093 the trust property, the purposes of the trust, and the skills of the trustee.

1094 Section 71. Section **75-7-806** is enacted to read:

1095 **75-7-806. Trustee's skills.**

1096 A trustee who has special skills or expertise, or is named trustee in reliance upon the
1097 trustee's representation that the trustee has special skills or expertise, shall use those special skills
1098 or expertise.

1099 Section 72. Section **75-7-807** is enacted to read:

1100 **75-7-807. Delegation by trustee.**

1101 (1) A trustee may delegate duties and powers that a prudent trustee of comparable skills
1102 could properly delegate under the circumstances. The trustee shall exercise reasonable care, skill,
1103 and caution in:

1104 (a) selecting an agent;

1105 (b) establishing the scope and terms of the delegation, consistent with the purposes and
1106 terms of the trust; and

1107 (c) periodically reviewing the agent's actions in order to monitor the agent's performance
1108 and compliance with the terms of the delegation.

1109 (2) In performing a delegated function, an agent owes a duty to the trust to exercise
1110 reasonable care to comply with the terms of the delegation.

1111 (3) A trustee who complies with Subsection (1) is not liable to the beneficiaries or to the
1112 trust for an action of the agent to whom the function was delegated.

1113 (4) By accepting a delegation of powers or duties from the trustee of a trust that is subject
1114 to the law of this state, an agent submits to the jurisdiction of the courts of this state.

1115 Section 73. Section **75-7-808** is enacted to read:

1116 **75-7-808. Powers to direct.**

1117 (1) While a trust is revocable, the trustee may follow a direction of the settlor that is
1118 contrary to the terms of the trust.

1119 (2) If the terms of a trust confer upon a person other than the settlor of a revocable trust
1120 power to direct certain actions of the trustee, the trustee shall act in accordance with an exercise
1121 of the power unless the attempted exercise is manifestly contrary to the terms of the trust or the
1122 trustee knows the attempted exercise would constitute a serious breach of a fiduciary duty that the
1123 person holding the power owes to the beneficiaries of the trust.

1124 (3) The terms of a trust may confer upon a trustee or other person a power to direct the
1125 modification or termination of the trust.

1126 (4) A person, other than a beneficiary, who holds a power to direct is presumptively a
1127 fiduciary who, as such, is required to act in good faith with regard to the purposes of the trust and
1128 the interests of the beneficiaries. The holder of a power to direct is liable for any loss that results
1129 from breach of a fiduciary duty.

1130 Section 74. Section **75-7-809** is enacted to read:

1131 **75-7-809. Control and protection of trust property.**

1132 A trustee shall take reasonable steps to take control of and protect the trust property.

1133 Section 75. Section **75-7-810** is enacted to read:

1134 **75-7-810. Recordkeeping and identification of trust property.**

1135 (1) A trustee shall keep adequate records of the administration of the trust.

1136 (2) A trustee shall keep trust property separate from the trustee's own property.

1137 (3) Except as otherwise provided in Subsection (4), a trustee shall cause the trust property
1138 to be designated so that the interest of the trust, to the extent feasible, appears in records
1139 maintained by a party other than a trustee or beneficiary.

1140 (4) If the trustee maintains records clearly indicating the respective interests, a trustee may
1141 invest as a whole the property of two or more separate trusts.

1142 Section 76. Section **75-7-811** is enacted to read:

1143 **75-7-811. Enforcement and defense of claims.**

1144 A trustee shall take reasonable steps to enforce claims of the trust and to defend claims
1145 against the trust.

1146 Section 77. Section **75-7-812** is enacted to read:

1147 **75-7-812. Collecting trust property.**

1148 A trustee shall take reasonable steps to compel a former trustee or other person to deliver
1149 trust property to the trustee, and to redress a breach of trust known to the trustee to have been
1150 committed by a former trustee.

1151 Section 78. Section **75-7-813** is enacted to read:

1152 **75-7-813. Duty to inform and report.**

1153 (1) A trustee shall keep the qualified beneficiaries of the trust reasonably informed about
1154 the administration of the trust and of the material facts necessary for them to protect their interests.
1155 Unless unreasonable under the circumstances, a trustee shall promptly respond to a beneficiary's
1156 request for information related to the administration of the trust.

1157 (2) A trustee:

1158 (a) upon request of a beneficiary, shall promptly furnish to the beneficiary a copy of the
1159 trust instrument;

1160 (b) within 60 days after accepting a trusteeship, shall notify the qualified beneficiaries of
1161 the acceptance and of the trustee's name, address, and telephone number;

1162 (c) within 60 days after the date the trustee acquires knowledge of the creation of an
1163 irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has
1164 become irrevocable, whether by the death of the settlor or otherwise, shall notify the qualified
1165 beneficiaries of the trust's existence, of the identity of the settlor or settlors, of the right to request
1166 a copy of the trust instrument, and of the right to a trustee's report as provided in Subsection (3);
1167 and

1168 (d) shall notify the qualified beneficiaries in advance of any change in the method or rate
1169 of the trustee's compensation.

1170 (3) A trustee shall send to the distributees or permissible distributees of trust income or
1171 principal, and to other qualified or nonqualified beneficiaries who request it, at least annually and
1172 at the termination of the trust, a report of the trust property, liabilities, receipts, and disbursements,
1173 including the source and amount of the trustee's compensation, a listing of the trust assets and, if
1174 feasible, their respective market values. Upon a vacancy in a trusteeship, unless a cotrustee

1175 remains in office, a report must be sent to the qualified beneficiaries by the former trustee. A
1176 personal representative, conservator, or guardian may send the qualified beneficiaries a report on
1177 behalf of a deceased or incapacitated trustee.

1178 (4) A beneficiary may waive the right to a trustee's report or other information otherwise
1179 required to be furnished under this section. A beneficiary, with respect to future reports and other
1180 information, may withdraw a waiver previously given.

1181 Section 79. Section **75-7-814** is enacted to read:

1182 **75-7-814. Discretionary powers -- Tax savings.**

1183 (1) Notwithstanding the breadth of discretion granted to a trustee in the terms of the trust,
1184 including the use of such terms as "absolute," "sole," or "uncontrolled," the trustee shall exercise
1185 a discretionary power in good faith and in accordance with the terms and purposes of the trust and
1186 the interests of the beneficiaries.

1187 (2) Subject to Subsection (4), and unless the terms of the trust expressly indicate that a rule
1188 in this Subsection (2) does not apply:

1189 (a) a person other than a settlor who is a beneficiary and trustee of a trust that confers on
1190 the trustee a power to make discretionary distributions to or for the trustee's personal benefit may
1191 exercise the power only in accordance with an ascertainable standard relating to the trustee's
1192 individual health, education, support, or maintenance within the meaning of Section 2041(b)(1)(A)
1193 or 2514(c)(1) of the Internal Revenue Code of 1986, as in effect on May 1, 2002; and

1194 (b) a trustee may not exercise a power to make discretionary distributions to satisfy a legal
1195 obligation of support that the trustee personally owes another person.

1196 (3) A power whose exercise is limited or prohibited by Subsection (2) may be exercised
1197 by a majority of the remaining trustees whose exercise of the power is not limited or prohibited.
1198 If the power of all trustees is limited or prohibited, the court may appoint a special fiduciary with
1199 authority to exercise the power.

1200 (4) Subsection (2) does not apply to:

1201 (a) a power held by the settlor's spouse who is the trustee of a trust for which a marital
1202 deduction, as defined in Section 2056(b)(5) or 2523(e) of the Internal Revenue Code of 1986, as
1203 in effect on May 1, 2002, was previously allowed;

1204 (b) any trust during any period that the trust may be revoked or amended by its settlor; or

1205 (c) a trust if contributions to the trust qualify for the annual exclusion under Section

1206 2503(c) of the Internal Revenue Code of 1986, as in effect on May 1, 2002.

1207 Section 80. Section **75-7-815** is enacted to read:

1208 **75-7-815. General powers of trustee.**

1209 (1) A trustee, without authorization by the court, may exercise:

1210 (a) powers conferred by the terms of the trust; or

1211 (b) except as limited by the terms of the trust:

1212 (i) all powers over the trust property which an unmarried competent owner has over
1213 individually owned property;

1214 (ii) any other powers appropriate to achieve the proper investment, management, and
1215 distribution of the trust property; and

1216 (iii) any other powers conferred by this chapter.

1217 (2) The exercise of a power is subject to the fiduciary duties prescribed by this part.

1218 Section 81. Section **75-7-816** is enacted to read:

1219 **75-7-816. Specific powers of trustee.**

1220 Without limiting the authority conferred by Section 75-7-815, a trustee may:

1221 (1) collect trust property and accept or reject additions to the trust property from a settlor
1222 or any other person;

1223 (2) acquire or sell property, for cash or on credit, at public or private sale;

1224 (3) exchange, partition, or otherwise change the character of trust property;

1225 (4) deposit trust money in an account in a regulated financial service institution;

1226 (5) borrow money, with or without security, and mortgage or pledge trust property for a
1227 period within or extending beyond the duration of the trust;

1228 (6) with respect to an interest in a proprietorship, partnership, limited liability company,
1229 business trust, corporation, or other form of business or enterprise, continue the business or other
1230 enterprise and take any action that may be taken by shareholders, members, or property owners,
1231 including merging, dissolving, or otherwise changing the form of business organization or
1232 contributing additional capital;

1233 (7) with respect to stocks or other securities, exercise the rights of an absolute owner,
1234 including the right to:

1235 (a) vote, or give proxies to vote, with or without power of substitution, or enter into or
1236 continue a voting trust agreement;

1237 (b) hold a security in the name of a nominee or in other form without disclosure of the trust
1238 so that title may pass by delivery;

1239 (c) pay calls, assessments, and other sums chargeable or accruing against the securities,
1240 and sell or exercise stock subscription or conversion rights; and

1241 (d) deposit the securities with a depository or other regulated financial service institution;

1242 (8) with respect to an interest in real property, construct, or make ordinary or extraordinary
1243 repairs to, alterations to, or improvements in, buildings or other structures, demolish
1244 improvements, raze existing or erect new party walls or buildings, subdivide or develop land,
1245 dedicate land to public use or grant public or private easements, and make or vacate plats and
1246 adjust boundaries;

1247 (9) enter into a lease for any purpose as lessor or lessee, including a lease or other
1248 arrangement for exploration and removal of natural resources, with or without the option to
1249 purchase or renew, for a period within or extending beyond the duration of the trust;

1250 (10) grant an option involving a sale, lease, or other disposition of trust property or acquire
1251 an option for the acquisition of property, including an option exercisable beyond the duration of
1252 the trust, and exercise an option so acquired;

1253 (11) insure the property of the trust against damage or loss and insure the trustee, the
1254 trustee's agents, and beneficiaries against liability arising from the administration of the trust;

1255 (12) abandon or decline to administer property of no value or of insufficient value to
1256 justify its collection or continued administration;

1257 (13) with respect to possible liability for violation of environmental law:

1258 (a) inspect or investigate property the trustee holds or has been asked to hold, or property
1259 owned or operated by an organization in which the trustee holds or has been asked to hold an
1260 interest, for the purpose of determining the application of environmental law with respect to the
1261 property;

1262 (b) take action to prevent, abate, or otherwise remedy any actual or potential violation of
1263 any environmental law affecting property held directly or indirectly by the trustee, whether taken
1264 before or after the assertion of a claim or the initiation of governmental enforcement;

1265 (c) decline to accept property into trust or disclaim any power with respect to property that
1266 is or may be burdened with liability for violation of environmental law;

1267 (d) compromise claims against the trust which may be asserted for an alleged violation of

1268 environmental law; and

1269 (e) pay the expense of any inspection, review, abatement, or remedial action to comply
1270 with environmental law;

1271 (14) pay or contest any claim, settle a claim by or against the trust, and release, in whole
1272 or in part, a claim belonging to the trust;

1273 (15) pay taxes, assessments, compensation of the trustee and of employees and agents of
1274 the trust, and other expenses incurred in the administration of the trust;

1275 (16) exercise elections with respect to federal, state, and local taxes;

1276 (17) select a mode of payment under any employee benefit or retirement plan, annuity, or
1277 life insurance payable to the trustee, exercise rights thereunder, including exercise of the right to
1278 indemnification for expenses and against liabilities, and take appropriate action to collect the
1279 proceeds;

1280 (18) make loans out of trust property, including loans to a beneficiary on terms and
1281 conditions the trustee considers to be fair and reasonable under the circumstances, and retaining
1282 a lien on future distributions for repayment of those loans;

1283 (19) pledge trust property to guarantee loans made by others to the beneficiary;

1284 (20) appoint a trustee to act in another jurisdiction with respect to trust property located
1285 in the other jurisdiction, confer upon the appointed trustee all of the powers and duties of the
1286 appointing trustee, require that the appointed trustee furnish security, and remove any trustee so
1287 appointed;

1288 (21) pay any amount distributable to a beneficiary who is under a legal disability or who
1289 the trustee reasonably believes is incapacitated, by paying it directly to the beneficiary or applying
1290 it for the beneficiary's benefit, or by:

1291 (a) paying it to the beneficiary's conservator or, if the beneficiary does not have a
1292 conservator, the beneficiary's guardian;

1293 (b) paying it to the beneficiary's custodian under Title 75, Chapter 5a, Uniform Transfers
1294 to Minors Act and, for that purpose, creating a custodianship;

1295 (c) if the trustee does not know of a conservator, guardian, or custodian, paying it to an
1296 adult relative or other person having legal or physical care or custody of the beneficiary, to be
1297 expended on the beneficiary's behalf; or

1298 (d) managing it as a separate fund on the beneficiary's behalf, subject to the beneficiary's

1299 continuing right to withdraw the distribution;

1300 (22) on distribution of trust property or the division or termination of a trust, make
1301 distributions in divided or undivided interests, allocate particular assets in proportionate or
1302 disproportionate shares, value the trust property for those purposes, and adjust for resulting
1303 differences in valuation;

1304 (23) resolve a dispute concerning the interpretation of the trust or its administration by
1305 mediation, arbitration, or other procedure for alternative dispute resolution;

1306 (24) prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to
1307 protect trust property and the trustee in the performance of the trustee's duties;

1308 (25) sign and deliver contracts and other instruments that are useful to achieve or facilitate
1309 the exercise of the trustee's powers; and

1310 (26) on termination of the trust, exercise the powers appropriate to wind up the
1311 administration of the trust and distribute the trust property to the persons entitled to it.

1312 Section 82. Section **75-7-817** is enacted to read:

1313 **75-7-817. Distribution upon termination.**

1314 (1) Upon termination or partial termination of a trust, the trustee may send to the
1315 beneficiaries a proposal for distribution. The right of any beneficiary to object to the proposed
1316 distribution terminates if the beneficiary does not notify the trustee of an objection within 30 days
1317 after the proposal was sent but only if the proposal informed the beneficiary of the right to object
1318 and of the time allowed for objection.

1319 (2) Upon the occurrence of an event terminating or partially terminating a trust, the trustee
1320 shall proceed expeditiously to distribute the trust property to the persons entitled to it, subject to
1321 the right of the trustee to retain a reasonable reserve for the payment of debts, expenses, and taxes.

1322 (3) A release by a beneficiary of a trustee from liability for breach of trust is invalid to the
1323 extent:

1324 (a) it was induced by improper conduct of the trustee; or

1325 (b) the beneficiary, at the time of the release, did not know of the beneficiary's rights or
1326 of the material facts relating to the breach.

1327 Section 83. Section **75-7-901** is enacted to read:

1328 **Part 9. Utah Uniform Prudent Investor Act**

1329 **75-7-901. Prudent investor rule.**

1330 (1) Except as otherwise provided in Subsection (2), a trustee who invests and manages
1331 trust assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule
1332 set forth in this chapter.

1333 (2) The prudent investor rule is a default rule and may be expanded, restricted, eliminated,
1334 or otherwise altered by the provisions of a trust. A trustee is not liable to a beneficiary to the
1335 extent that the trustee acted in reasonable reliance on the provisions of the trust.

1336 Section 84. Section **75-7-902** is enacted to read:

1337 **75-7-902. Standard of care -- Portfolio strategy -- Risk and return objectives.**

1338 (1) A trustee shall invest and manage trust assets as a prudent investor would, by
1339 considering the purposes, terms, distribution requirements, and other circumstances of the trust.
1340 In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

1341 (2) A trustee's investment and management decisions respecting individual assets must be
1342 evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an
1343 overall investment strategy having risk and return objectives reasonably suited to the trust.

1344 (3) Among circumstances that a trustee shall consider in investing and managing trust
1345 assets are the following which may be relevant to the trust or its beneficiaries:

1346 (a) general economic conditions;

1347 (b) the possible effect of inflation or deflation;

1348 (c) the expected tax consequences of investment decisions or strategies;

1349 (d) the role that each investment or course of action plays within the overall trust portfolio,
1350 which may include financial assets, interests in closely held enterprises, tangible and intangible
1351 personal property, and real property;

1352 (e) the expected total return from income and the appreciation of capital;

1353 (f) other resources of the beneficiaries;

1354 (g) needs for liquidity, regularity of income, and preservation or appreciation of capital;

1355 and

1356 (h) an asset's special relationship or special value, if any, to the purposes of the trust or to
1357 one or more of the beneficiaries.

1358 (4) A trustee shall make a reasonable effort to verify facts relevant to the investment and
1359 management of trust assets.

1360 (5) A trustee may invest in any kind of property or type of investment consistent with the

1361 standards of this chapter.

1362 Section 85. Section **75-7-903** is enacted to read:

1363 **75-7-903. Diversification.**

1364 A trustee shall diversify the investments of the trust unless the trustee reasonably
1365 determines that, because of special circumstances, the purposes of the trust are better served
1366 without diversifying.

1367 Section 86. Section **75-7-904** is enacted to read:

1368 **75-7-904. Duties at inception of trusteeship.**

1369 Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee
1370 shall review the trust assets and make and implement decisions concerning the retention and
1371 disposition of assets, in order to bring the trust portfolio into compliance with the purposes, terms,
1372 distribution requirements, and other circumstances of the trust, and with the requirements of this
1373 chapter.

1374 Section 87. Section **75-7-905** is enacted to read:

1375 **75-7-905. Reviewing compliance.**

1376 Compliance with the prudent investor rule is determined in light of the facts and
1377 circumstances existing at the time of a trustee's decision or action and not by hindsight.

1378 Section 88. Section **75-7-906** is enacted to read:

1379 **75-7-906. Language invoking standard of chapter.**

1380 The following terms or comparable language in the provisions of a trust, unless otherwise
1381 limited or modified, authorizes any investment or strategy permitted under this chapter:
1382 "investments permissible by law for investment of trust funds," "legal investments," "authorized
1383 investments," "using the judgment and care under the circumstances then prevailing that persons
1384 of prudence, discretion, and intelligence exercise in the management of their own affairs, not in
1385 regard to speculation but in regard to the permanent disposition of their funds, considering the
1386 probable income as well as the probable safety of their capital," "prudent man rule," "prudent
1387 trustee rule," "prudent person rule," and "prudent investor rule."

1388 Section 89. Section **75-7-1001** is enacted to read:

1389 **Part 10. Liability of Trustees and Rights of Persons Dealing with Trustee**

1390 **75-7-1001. Remedies for breach of trust.**

1391 (1) A violation by a trustee of a duty the trustee owes to a beneficiary is a breach of trust.

- 1392 (2) To remedy a breach of trust that has occurred or may occur, the court may:
1393 (a) compel the trustee to perform the trustee's duties;
1394 (b) enjoin the trustee from committing a breach of trust;
1395 (c) compel the trustee to redress a breach of trust by paying money, restoring property, or
1396 other means;
1397 (d) order a trustee to account;
1398 (e) appoint a special fiduciary to take possession of the trust property and administer the
1399 trust;
1400 (f) suspend the trustee;
1401 (g) remove the trustee as provided in Section 75-7-706;
1402 (h) reduce or deny compensation to the trustee;
1403 (i) subject to Section 75-7-1012, void an act of the trustee, impose a lien or a constructive
1404 trust on trust property, or trace trust property wrongfully disposed of and recover the property or
1405 its proceeds; or
1406 (j) order any other appropriate relief.

1407 Section 90. Section **75-7-1002** is enacted to read:

1408 **75-7-1002. Damages for breach of trust.**

1409 (1) A trustee who commits a breach of trust is liable to the beneficiaries affected for the
1410 greater of:

- 1411 (a) the amount required to restore the value of the trust property and trust distributions to
1412 what they would have been had the breach not occurred; or
1413 (b) the profit the trustee made by reason of the breach.

1414 (2) Except as otherwise provided in this Subsection (2), if more than one trustee is liable
1415 to the beneficiaries for a breach of trust, a trustee is entitled to contribution from the other trustee
1416 or trustees. A trustee is not entitled to contribution if the trustee was substantially more at fault
1417 than another trustee or if the trustee committed the breach of trust in bad faith or with reckless
1418 indifference to the purposes of the trust or the interests of the beneficiaries. A trustee who received
1419 a benefit from the breach of trust is not entitled to contribution from another trustee to the extent
1420 of the benefit received.

1421 Section 91. Section **75-7-1003** is enacted to read:

1422 **75-7-1003. Damages in absence of breach.**

1423 (1) A trustee is accountable to an affected beneficiary for any profit made by the trustee
1424 arising from the administration of the trust, even absent a breach of trust.

1425 (2) Absent a breach of trust, a trustee is not liable to a beneficiary for a loss or depreciation
1426 in the value of trust property or for not having made a profit.

1427 Section 92. Section **75-7-1004** is enacted to read:

1428 **75-7-1004. Attorney's fees and costs.**

1429 In a judicial proceeding involving the administration of a trust, the court may, as justice and
1430 equity may require, award costs and expenses, including reasonable attorney's fees, to any party,

1431 to be paid by another party or from the trust that is the subject of the controversy.

1432 Section 93. Section **75-7-1005** is enacted to read:

1433 **75-7-1005. Limitation of action against trustee.**

1434 (1) A beneficiary may not commence a proceeding against a trustee for breach of trust
1435 more than one year after the date the beneficiary or a representative of the beneficiary was sent a
1436 report that adequately disclosed the existence of a potential claim for breach of trust and informed
1437 the beneficiary of the time allowed for commencing a proceeding.

1438 (2) A report adequately discloses the existence of a potential claim for breach of trust if
1439 it provides sufficient information so that the beneficiary or representative knows of the potential
1440 claim or should have inquired into its existence.

1441 (3) If Subsection (1) does not apply, a judicial proceeding by a beneficiary against a trustee
1442 for breach of trust must be commenced within five years after the first to occur of:

1443 (a) the removal, resignation, or death of the trustee;

1444 (b) the termination of the beneficiary's interest in the trust; or

1445 (c) the termination of the trust.

1446 Section 94. Section **75-7-1006** is enacted to read:

1447 **75-7-1006. Reliance on trust instrument.**

1448 A trustee who acts in reasonable reliance on the terms of the trust as expressed in the trust
1449 instrument is not liable to a beneficiary for a breach of trust to the extent the breach resulted from
1450 the reliance.

1451 Section 95. Section **75-7-1007** is enacted to read:

1452 **75-7-1007. Event affecting administration or distribution.**

1453 If the happening of an event, including marriage, divorce, performance of educational

1454 requirements, or death, affects the administration or distribution of a trust, a trustee who has
1455 exercised reasonable care to ascertain the happening of the event is not liable for a loss resulting
1456 from the trustee's lack of knowledge.

1457 Section 96. Section **75-7-1008** is enacted to read:

1458 **75-7-1008. Exculpation of trustee.**

1459 (1) A term of a trust relieving a trustee of liability for breach of trust is unenforceable to
1460 the extent that it:

1461 (a) relieves the trustee of liability for breach of trust committed in bad faith or with
1462 reckless indifference to the purposes of the trust or the interests of the beneficiaries; or

1463 (b) was inserted as the result of an abuse by the trustee of a fiduciary or confidential
1464 relationship to the settlor.

1465 (2) An exculpatory term drafted or caused to be drafted by the trustee is invalid as an abuse
1466 of a fiduciary or confidential relationship unless the trustee proves that the exculpatory term is fair
1467 under the circumstances and that its existence and contents were adequately communicated to the
1468 settlor.

1469 Section 97. Section **75-7-1009** is enacted to read:

1470 **75-7-1009. Beneficiary's consent, release, or ratification.**

1471 A trustee is not liable to a beneficiary for breach of trust if the beneficiary, while having
1472 capacity, consented to the conduct constituting the breach, released the trustee from liability for
1473 the breach, or ratified the transaction constituting the breach, unless:

1474 (1) the consent, release, or ratification of the beneficiary was induced by improper conduct
1475 of the trustee; or

1476 (2) at the time of the consent, release, or ratification, the beneficiary did not know of the
1477 beneficiary's rights or of the material facts relating to the breach.

1478 Section 98. Section **75-7-1010** is enacted to read:

1479 **75-7-1010. Limitation on personal liability of trustee.**

1480 (1) Except as otherwise provided in the contract, a trustee is not personally liable on a
1481 contract properly entered into in the trustee's fiduciary capacity in the course of administering the
1482 trust if the trustee in the contract disclosed the fiduciary capacity.

1483 (2) A trustee is personally liable for torts committed in the course of administering a trust,
1484 or for obligations arising from ownership or control of trust property, including liability for

1485 violation of environmental law, only if the trustee is personally at fault.

1486 (3) A claim based on a contract entered into by a trustee in the trustee's fiduciary capacity,
1487 on an obligation arising from ownership or control of trust property, or on a tort committed in the
1488 course of administering a trust, may be asserted in a judicial proceeding against the trustee in the
1489 trustee's fiduciary capacity, whether or not the trustee is personally liable for the claim.

1490 Section 99. Section **75-7-1011** is enacted to read:

1491 **75-7-1011. Interest as general partner.**

1492 (1) Except as otherwise provided in Subsection (3) or unless personal liability is imposed
1493 in the contract, a trustee who holds an interest as a general partner in a general or limited
1494 partnership is not personally liable on a contract entered into by the partnership after the trust's
1495 acquisition of the interest if the fiduciary capacity was disclosed in the contract or in a statement
1496 previously filed pursuant to Title 48, Chapter 2a, Utah Revised Uniform Limited Partnership Act.

1497 (2) Except as otherwise provided in Subsection (3), a trustee who holds an interest as a
1498 general partner is not personally liable for torts committed by the partnership or for obligations
1499 arising from ownership or control of the interest unless the trustee is personally at fault.

1500 (3) The immunity provided by this section does not apply if an interest in the partnership
1501 is held by the trustee in a capacity other than that of trustee or is held by the trustee's spouse or one
1502 or more of the trustee's descendants, siblings, or parents, or the spouse of any of them.

1503 (4) If the trustee of a revocable trust holds an interest as a general partner, the settlor is
1504 personally liable for contracts and other obligations of the partnership as if the settlor were a
1505 general partner.

1506 Section 100. Section **75-7-1012** is enacted to read:

1507 **75-7-1012. Protection of person dealing with trustee.**

1508 (1) A person other than a beneficiary who in good faith assists a trustee, or who in good
1509 faith and for value deals with a trustee, without knowledge that the trustee is exceeding or
1510 improperly exercising the trustee's powers is protected from liability as if the trustee properly
1511 exercised the power.

1512 (2) A person other than a beneficiary who in good faith deals with a trustee is not required
1513 to inquire into the extent of the trustee's powers or the propriety of their exercise.

1514 (3) A person who in good faith delivers assets to a trustee need not ensure their proper
1515 application.

1516 (4) A person other than a beneficiary who in good faith assists a former trustee, or who in
1517 good faith and for value deals with a former trustee, without knowledge that the trusteeship has
1518 terminated is protected from liability as if the former trustee were still a trustee.

1519 (5) Comparable protective provisions of other laws relating to commercial transactions or
1520 transfer of securities by fiduciaries prevail over the protection provided by this section.

1521 Section 101. Section **75-7-1013** is enacted to read:

1522 **75-7-1013. Certification of trust.**

1523 (1) Instead of furnishing a copy of the trust instrument to a person other than a beneficiary,
1524 the trustee may furnish to the person a certification of trust containing the following information:

1525 (a) that the trust exists and the date the trust instrument was executed;

1526 (b) the identity of the settlor;

1527 (c) the identity and address of the currently acting trustee;

1528 (d) the powers of the trustee;

1529 (e) the revocability or irrevocability of the trust and the identity of any person holding a
1530 power to revoke the trust;

1531 (f) the authority of cotrustees to sign or otherwise authenticate and whether all or less than
1532 all are required in order to exercise powers of the trustee;

1533 (g) the trust's taxpayer identification number; and

1534 (h) the manner of taking title to trust property.

1535 (2) A certification of trust may be signed or otherwise authenticated by any trustee.

1536 (3) A certification of trust must state that the trust has not been revoked, modified, or
1537 amended in any manner that would cause the representations contained in the certification of trust
1538 to be incorrect.

1539 (4) A certification of trust need not contain the dispositive terms of a trust.

1540 (5) A recipient of a certification of trust may require the trustee to furnish copies of those
1541 excerpts from the original trust instrument and later amendments which designate the trustee and
1542 confer upon the trustee the power to act in the pending transaction.

1543 (6) A person who acts in reliance upon a certification of trust without knowledge that the
1544 representations contained in it are incorrect is not liable to any person for acting and may assume
1545 without inquiry the existence of the facts contained in the certification. Knowledge of the terms
1546 of the trust may not be inferred solely from the fact that a copy of all or part of the trust instrument

1547 is held by the person relying upon the certification.

1548 (7) A person who in good faith enters into a transaction in reliance upon a certification of
1549 trust may enforce the transaction against the trust property as if the representations contained in
1550 the certification were correct.

1551 (8) A person making a demand for the trust instrument in addition to a certification of trust
1552 or excerpts is liable for damages if the court determines that the person did not act in good faith
1553 in demanding the trust instrument.

1554 (9) This section does not limit the right of a person to obtain a copy of the trust instrument
1555 in a judicial proceeding concerning the trust.

1556 Section 102. Section **75-7-1101** is enacted to read:

1557 **Part 11. Miscellaneous Provisions**

1558 **75-7-1101. Uniformity of application and construction.**

1559 In applying and construing this uniform act, consideration must be given to the need to
1560 promote uniformity of the law with respect to its subject matter among states that enact it.

1561 Section 103. Section **75-7-1102** is enacted to read:

1562 **75-7-1102. Electronic records and signatures.**

1563 The provisions of this chapter governing the legal effect, validity, or enforceability of
1564 electronic records or electronic signatures, and of contracts formed or performed with the use of
1565 such records or signatures, conform to the requirements of Section 102 of the Electronic Signatures
1566 in Global and National Commerce Act (15 U.S.C. 7002) and supersede, modify, and limit the
1567 requirements of the Electronic Signatures in Global and National Commerce Act.

1568 Section 104. Section **75-7-1103** is enacted to read:

1569 **75-7-1103. Application to existing relationships.**

1570 (1) Except as otherwise provided, this chapter applies to:

1571 (a) all trusts created before, on, or after May 1, 2002;

1572 (b) all judicial proceedings concerning trusts commenced on or after May 1, 2002; and

1573 (c) judicial proceedings concerning trusts commenced before May 1, 2002 unless the court
1574 finds that application of a particular provision of this chapter would substantially interfere with the
1575 effective conduct of the judicial proceedings or prejudice the rights of the parties, in which case
1576 the particular provision of this chapter shall not apply and the superseded section will apply.

1577 (2) Any rule of construction or presumption provided in this chapter applies to trust

1578 instruments executed before May 1, 2002 unless there is a clear indication of a contrary intent in
1579 the terms of the trust.

1580 (3) Any act done before May 1, 2002 is not affected by this chapter.

1581 (4) If a right is acquired, extinguished, or barred upon the expiration of a prescribed period
1582 that has commenced to run under any other statute before May 1, 2002, that statute continues to
1583 apply to the right even if it has been repealed or superseded.

1584 Section 105. **Repealer.**

1585 This act repeals:

1586 Section **75-7-205, Court -- Concurrent jurisdiction of litigation involving trusts and**
1587 **third parties.**

1588 Section **75-7-206, Proceedings for review of employment of agents and review of**
1589 **compensation of trustee and employees of trust.**

1590 Section **75-7-207, Trust proceedings -- Initiation by notice -- Necessary parties.**

1591 Section **75-7-306, Personal liability of trustee to third parties.**

1592 Section **75-7-307, Limitations on proceedings against trustees after final account.**

Legislative Review Note
as of 12-17-01 11:11 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel